

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6709

BILL NUMBER: HB 1158

NOTE PREPARED: Dec 20, 2005

BILL AMENDED:

SUBJECT: Small Claims and Civil Actions.

FIRST AUTHOR: Rep. Richardson

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill has the following provisions:

- A. *Judicial Salaries Fee* - It specifies that the 25% of the judicial salaries fees collected by a Marion County small claims court that is not deposited in the state General Fund must be deposited in the general fund of the township in which the small claims court is located.
- B. *Garnishee Defendants* - It provides that the small claims service fee and civil action service fee do not apply to garnishee defendants.

Effective Date: July 1, 2006.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *Judicial Salaries Fee* – Requiring 25% of the Judicial Salaries fee that is collected by Marion County small claims courts be deposited into the general fund of the township in which the court is located will not create or redistribute any new revenue and, thus, will have no fiscal impact on local revenues.

Background Information on Judicial Salaries Fee -- The Judicial Salaries fee was created during the 2005 General Assembly. This fee is collected by trial courts, city and town courts, and Marion County small claims courts. 100% of the fee collected by the trial courts is deposited in the state General Fund, while 75% of the fee collected by both city and town courts and the Marion County small claims court is deposited in the

state General Fund. The statute specifically calls for the balance of the fee (25%) in city and town courts be retained at the local level (IC 33-37-7-8(I)), while the statute is silent on what the Marion County small claims courts should do about this fee.

Based on instructions from the Marion County Clerk of the Circuit Court and the State Board of Accounts, the nine Marion County small claims courts are already depositing this 25% in the local township funds. Consequently, this bill would not create or redistribute any new revenue.

Garnishee Defendants – This provision could reduce the revenue that is currently assessed by the courts in civil and small claims actions depending on whether these courts are already assessing the fee. Because these fees became effective July 1, 2005, information on the revenue generated by this new fee will not be available until the end of the 2005 calendar year at the earliest.

Background Information on Garnishee Defendants -- Garnishees are generally employers or banks. They receive a court order not to release funds held for or owed to a customer or employee, pending further order of the court. When the fee is assessed, the party naming the garnishee must pay this \$10 fee for each garnishee named. During testimony at Commission on Courts meetings during the 2005 interim, members reported that courts in Indiana are divided about whether the party naming a garnishee defendant should be subject to the \$10 civil service or small claims service fee. Consequently, some courts assess the fee and others do not.

Proceeds from the civil and small claims service fees are deposited in the county and city and town general funds.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Clerk of the circuit court, clerk of the city and town courts.

Information Sources: Robert Spear, Marion County Small Claims Court, Perry Township; Chuck Nemeth, State Board of Accounts; *2005 Final Report of the Commission on Courts*.

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